

UOP, INC.

IBLA 83-13

Decided June 29, 1983

Appeal from a decision of the Eastern States Office, Bureau of Land Management, extending prospecting permit ES 16692.

Set aside and remanded.

1. Mineral Lands: Prospecting Permits

Where, pursuant to 43 CFR 3510, BLM grants a 2-year extension to a hardrock mineral prospecting permit, but delays approval of the extension for 15 months after the expiration of the original permit and then dates the extension from the terminal date of the original permit, the permit will be deemed to have been suspended during the period between the expiration date of the original permit and the granting of the extension, so that the permittee may have a full 2-year term for prospecting.

APPEARANCES: R. J. Weege, director, UOP, Inc., Des Plaines, Illinois.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

UOP, Inc. (UOP), appeals from a decision of the Eastern States Office, Bureau of Land Management (BLM), dated August 31, 1982, extending hardrock prospecting permit ES 16692 for a period of 2 years ending May 31, 1983. Prospecting permit ES 16692 was originally issued effective June 1, 1979, for a period of 2 years to the Mineral Sciences Division of UOP. Prior to the end of this term, UOP sought an extension of its permit and paid the first year's rent. Although, as noted above, BLM granted the request on August 31, 1982, for a period of 2 years, it held that the 2-year extension began upon the expiration of the original permit.

UOP maintains that the 2-year extension should begin on August 31, 1982, the date of BLM's decision. It maintains that upon expiration of its permit on June 1, 1981, it temporarily suspended prospecting until it received notice that its permit had been extended. For BLM to hold now that the extension shall end on May 31, 1983, UOP contends, is to hold that its extension is to last for only 9 months. Regulation 43 CFR 3511.3-1 provides that prospecting permits may be extended by an authorized officer of BLM for a period of 2 years.

In a similar case, ASARCO, Inc., 72 IBLA 110 (1983), this Board adhered to its position in a prior case, ASARCO, Inc., 70 IBLA 91 (1983), that the extension of a prospecting permit is a prolongation of the term of the previous interest, and so commences as of the expiration date of the primary term of the permit. The Board also held, however, that where there has been an inordinate delay by BLM in granting the extension of a permit following receipt of an application, BLM should consider the permit to have been suspended. In this case, BLM should consider permit ES 16692 to have been suspended from June 1, 1981, to August 31, 1982.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Eastern States Office is set aside and remanded for action consistent herewith.

Anne Poindexter Lewis
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Bruce R. Harris
Administrative Judge